HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. V.SEETHAPATHY

WRIT APPEAL No. 810 OF 2006

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Between:

A. Thirupathi

……Appellant

And

The Returning Officer & E.O., (PR & RD),
Gram Panchayat, Choppadandi,
Karimnagar District and three others

……Respondents

:: JUDGMENT ::

Counsel for the Appellant : Sri G.Tuhin Kumar
Representing
Sri S.Satyam Reddy

Counsel for Respondent No. 2 : Government Pleader for
Panchayat Raj

Counsel for Respondent No.3 : Sri V.V.Prabhakar Rao

Dated: 01-08-2006

Per G.S. SINGHVI, CJ

This is an appeal for setting aside order dated 25-07-2006 whereby the learned Single Judge dismissed Writ Petition No.15302 of 2006 filed by the petitioner for quashing order dated 22-07-2006 passed by Revenue Divisional Officer, Karimnagar rejecting his appeal in the matter of wrongful non-acceptance of nomination paper for the Office of Member, Ward No. III, Gram Panchayat Choppadandi, Karimnagar District.

A perusal of the record shows that the learned Single Judge dismissed the writ petition on the ground of availability of alternative remedy to the petitioner.

We have heard Sri G.Tuhin Kumar appearing for Sri S.Satyam Reddy and perused the record. In our opinion, the view taken by the learned Single Judge on the maintainability of the writ petition filed by the appellant does not suffer from any infirmity warranting interference. As a matter of fact, the dismissal of the petitioner's writ petition on the ground of availability of alternative remedy is in consonance with the non-obstante clause contained in Article 243-O of the Constitution of India and the judgments of the Supreme Court in **N.P.Ponnuswamy v. Returning Officer, Namakkal Constitutency**[1], **Mohinder Singh Gill v. Chief Election Commissioner**[2], **State of U.P v. Pradhan Sangh Kshetra Samiti**[3], **Anugrah Narayan Singh v. State of U.P**[4], **Manda Jagannath v. K.S.Rathnam**[5] and order dated 23-06-2006 passed by this Court in Writ Appeal (SR) No.65599 of 2006, **the State Election Commission vs. M. Rajendra Prasad and others**.

In the last mentioned case, the Division Bench reviewed the entire law on the subject and held that a writ petition filed against the

wrongful acceptance or rejection of the nomination paper is not maintainable in view of the bar contained in Article 243-O of the Constitution of India and the only remedy available to the aggrieved person is to file a petition under Section 233 of the Andhra Pradesh Panchayat Raj Act, 1994. The Division Bench further held that the power of judicial review vested in the High Court under Article 226 of the Constitution of India is not taken away by the bar contained in Article 243-O of the Constitution. Rather, it is postponed till the adjudication of election dispute by an appropriate adjudicatory forum constituted under the law enacted by the competent State Legislature.

In view of the law laid down in the aforementioned cases, this appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No.1656 of 2006 filed by the appellant for grant of an interim relief is also dismissed.

G.S.SINGHVI, CJ

G.V. SEETHAPATHY,J

01-08-2006
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[1] AIR 1952 SC 64
[2] AIR 1978 SC 851
[3] 1995 Supplementary (2) SCC 305
[4] 1996 (6) SCC 303
[5] AIR 2004 SC 3600